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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,937	04/03/2001	Lori Greiner	13345.36US01	1540

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT PAPER NUMBER

3727

DATE MAILED: 07/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/824,937

Applicant(s)

GREINER

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-19 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 15-19 and 21-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-19, 21-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is indefinite because it can not be determined if the same "hollow region" stated in line 1 is being referred to in line 4, that is, being reintroduced or if another hollow region is being referred to and being introduced for the first time. There are many hollow regions present in the invention, each compartment formed between the dividers forms hollow regions, also a hollow region is formed between the inner and outer containers and a hollow region is formed inside the inner container.

Claim 15 recites the limitation "the hollow region" in line 6. There is insufficient antecedent basis for this limitation in the claim because it can not be determined which of the many hollow regions is being referred to.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-18 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Barnes et al. (Barnes).

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Kimura discloses a decorative container displaying items in a hollow region comprising an inner container positioned within an outer container thereby defining a hollow region therebetween, the outer container is transparent, a removable member (24) allows access to the hollow region. ^{Kimura} Gallegos discloses the container except for the decorative lid. Barnes teaches a decorative lid removably mounted upon in the upper opening of a decorative container, the lid defining a hollow cavity and being transparent, the lid comprising a removable access member providing access to the hollow cavity. It would have been obvious to add a lid in order to close the container and seal the contents from contamination. For claim 17, the dome shape is obvious by design choice.

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Claims 15-19 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Barnes and Yellin.

The combination of Kimura and Barnes is as taught in the above rejection. The combination discloses the invention except for the plurality of dividers. Yellin teaches a plurality of removable dividers (76), one shown in Fig. 6. Also, one of the removable dividers (76) fulfills all of the limitations of a removable member as presented in claim 15. It would have been obvious to add a plurality of dividers to the hollow region of Kimura in order to segregate subregions of the hollow region and to keep the contents of one subregion from becoming mixed with contents of another subregion. It would have been further obvious to add one divider as an additional teaching of a removable member as taught by claim 15.

Claims 15-18, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallegos in view of Barnes et al. (Barnes).

Gallegos discloses a decorative container displaying items in a hollow region comprising an inner container positioned within an outer container thereby defining a hollow region therebetween, the outer container is transparent, a removable member (23) allows access to the hollow region. Gallegos discloses the container except for the decorative lid. Barnes teaches a decorative lid removably mounted upon in the upper opening of a decorative container, the lid defining a hollow cavity and being transparent, the lid comprising a removable access member providing access to the hollow cavity. It would have been obvious to add a lid in order to close the container and seal the contents from contamination. For claim 17, the dome shape is obvious by design choice.

Claims 15-19, 21, 22, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallegos in view of Barnes and Yellin.

The combination of Gallegos and Barnes is as taught in the above rejection. The combination discloses the invention except for the plurality of dividers. Yellin teaches a plurality of removable dividers (76), one shown in Fig. 6. Also, one of the removable dividers (76) fulfills all of the limitations of a removable member as presented in claim 15. It would have been obvious to add a plurality of dividers to the hollow region of ^{Gallegos}~~Kimura~~ in order to segregate subregions of the hollow region and to keep the contents of one subregion from becoming mixed with contents of another subregion. It would have been further obvious to add one divider as an additional teaching of a removable member as taught by claim 15.

Claims 15-18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes et al. (Barnes) in view of Gallegos.

Sp 7/10/02

Barnes discloses a decorative container system comprising a decorative container including an outer container (22a), an inner container (22), a hollow region therebetween and a decorative lid (10) mounted in an upper opening of the decorative container, the lid having a hollow cavity, the lid being transparent, the lid has a removable lid access member (16). Barnes discloses the invention except for the outer container is not transparent and the removable member allowing access to the hollow region. Gallegos teaches a decorative container comprising a transparent outer container, a transparent inner container, a hollow region therebetween and a removable member (23) allowing access to the hollow region. It would have been obvious to modify the decorative container construction to include a transparent outer container in order to view the hollow region and to utilize this region as a decorative space in order to provide an aesthetically pleasing appearance. It would have been obvious to modify the construction of the connection between the outer container and inner container to include the removable member in order to allow access to the hollow region in order to change the decoration within the hollow region and to easily clean this region should dirt or other contamination become present.

Claims 15-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes in view of Wilkinson et al. (Wilkinson).

Barnes discloses a decorative container system comprising a decorative container including an outer container (22a), an inner container (22), a hollow region therebetween and a decorative lid (10) mounted in an upper opening of the decorative container, the lid having a hollow cavity, the lid being transparent, the lid has a removable lid access member (16). Barnes discloses the invention except for the dividers, the outer container is not transparent and the

removable member allowing access to the hollow region. Wilkinson teaches a decorative container comprising a transparent outer container, a transparent inner container, a hollow region therebetween with radial walls (20) which define dividers and a removable member (23) which appears to be resting upon the upper edges of outer container wall (3) and radial walls (20) allowing access to the hollow region. It would have been obvious to modify the decorative container construction to include dividers and a transparent outer container in order to view the hollow region and to utilize this region as a decorative and storage space in order to provide an aesthetically pleasing appearance and the utility of carrying various contents in a segregated manner. It would have been obvious to modify the construction of the connection between the outer container and inner container to include the removable member in order to allow access to the hollow region in order to change the decoration within the hollow region and to easily clean this region should dirt or other contamination become present.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes in view of Gallegos as applied to claim 15 above, and further in view of Wilkinson.

The combination discloses the invention except for the dividers. Wilkinson teaches dividers. It would have been obvious to add the dividers to the hollow region in order to utilize the hollow region as a storage space in order to carry various contents in a segregated manner.

Applicant's arguments filed June 27, 2002 have been fully considered but they are not persuasive. Applicant argues that modifying Barnes' insulation layer to be transparent would degrade the effectiveness of the insulation. This is not persuasive because the transparent materials such as glass and clear plastic still provide at least some insulative effect. Therefore, the limitations of the claim are still met and rejection is still proper. Insofar as Wilkinson

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discloses a joint between the top wall (23) and the inner cylindrical wall (17) and the joint can be cut or otherwise disconnected, the top wall is removable from cylindrical wall (17) and the remaining portion of the core (16). Therefore, top wall (23) is removable and would allow access to the hollow region.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc
July 10, 2002